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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 84/86 198
T.A. No.

DATE OF DECISION 25.4.1986

Shri B. Veeranna Petitioner

Shri Umesh Mishra Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri N.S. Mehta Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Member

The Hon'ble Mr. H.P. Bagchi, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No

JUDGEMENT

The petitioner has come up under Section 19 of the Administrative Tribunals Act praying that he should be promoted from Group 'C' pay-scale of Rs.425-900 to Group 'B' pay-scale of Rs.650-1200 retrospectively with effect from December 1979

and given all consequential benefits.

2. The brief facts of the case which are not in dispute are as follows. The applicant was considered by the DPC in December 1979 for promotion to Group 'B' grade but was not considered suitable for promotion. However the DPC which met in 1981 included him in the panel for promotion and he was ultimately promoted to Group 'B' in February 1981. The petitioner's contention is that the DPC rejected him in 1979 because of an adverse entry which he had got for the year 1978-79. This entry had been communicated to him in August 1979 against which he represented in September 1979 and his representation was rejected in November 1979. However on the basis of his further representation the adverse entry was watered down. According to him his promotion in 1981 was because the adverse entry had been watered down and if his representation had been accepted in September 1979 he would have been considered suitable for promotion in 1979 itself. The respondents on the other hand contend that he was found unsuitable in 1979 not because of the adverse entry of 1978-79 but on the basis of general assessment of his performance during the preceding five years. When his performance improved in 1980 he was included in the panel for promotion by the DPC. The petitioner has not alleged any malafide against the respondents.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents closely. The learned counsel for the respondents was good enough to voluntarily produce before us the confidential report dossier of the petitioner and in fairness offered it to be shown to the learned counsel for the petitioner also. The only grievance of the petitioner for

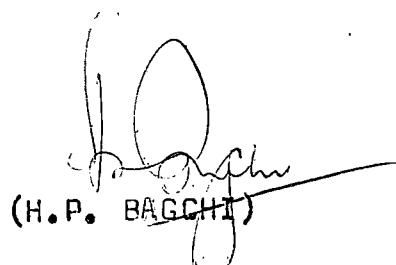
which he is seeking relief is that he was not selected for promotion from group 'C' to group 'B' by the DPC which met in December 1979. The ground on which he has made representation is that there was an adverse entry which was communicated to him for the year 1978-79 and this adverse entry was watered down in 1984. According to the petitioner if this watering down of the entry had been made in 1979 itself when he had represented he would have been selected for group 'B' in 1979 itself instead of being selected in 1981. The petitioner thinks that he would have by his selection in 1979 got enough seniority in group 'B' so as to entitle him to be considered for selection to group 'A'.

4. It is admitted that promotion from group 'C' to group 'B' is made by selection. The DPC met in December 1979 whereas the adverse entry had been communicated to the petitioner in August 1979 and the appeal rejected in November 1979. Thus technically speaking when the DPC met in December 1979 the representation against the adverse entry has been duly considered and rejected. The DPC's verdict against him therefore cannot be faulted on the basis of non-consideration of representation against the adverse entry. Even when on further representation the adverse entry was amended, the amended version itself retained considerable amount of adverse material against the petitioner which would have gone against him even if the amended version of adverse entry had been placed before the DPC which met in December 1979. We agree with the contention of the learned counsel for the respondents that the rejection of the petitioner in 1979 cannot be

related solely to the adverse entry of 1978-79 as an overall assessment of the performance of the petitioner had to be made by the DPC on the basis of the preceding 5 years reports. We have gone through the CR dossier of the petitioner for the 5 years preceding 1979 and found that apart from the adverse entry of 1978-79 the petitioner had been communicated two adverse entries one for 1975-76 and the other for 1974-75. Even for the other years between 1974 and 1978, he had earned a number of entries of average nature. Adverse entries for 1974-75 and 1975-76 clearly indicate that his performance had been poor in a number of respects and he had made baseless charges against his superiors for which he was warned. Even though during 1978-79 the adverse entry was watered down but a warning still remained against him.

5. Considering the whole conspectus of the entries and the circumstances we feel that the DPC which met in December 1979 cannot by any count be presumed to have taken an arbitrary or unduly harsh decision in not selecting the petitioner for a group 'B' post which is as indicated earlier is a selection post. The DPC which met in 1981 considered him fit for promotion and selected him for promotion to group 'B'. We, therefore, find nothing wrong in either the selection process or the assessment done by the DPC and reject the application. The learned counsel for the petitioner seeks liberty to file departmental representation against his supersession. The petitioner has every right to represent to the Government

under the rules and we feel that no specific order as such is necessary from this forum. In the circumstances of the case there will be no order as to costs.



(H.P. BAGCHI)



(S.P. MUKERJI)